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9 IN UNITED STATES DISTRICT COURT

10 FOR THE DISTRICT OF ARIZONA

11 James John Hedges,

12 Plaintiff,

13 v.

14 Maricopa County, a political subdivision of  
15 the State of Arizona; Sheriff Joseph Arpaio,  
16 as elected representative and as acting  
17 director of Maricopa County Sheriff's Office;  
Maricopa Medical Center, an administrative  
18 agency of Maricopa County; Correctional  
Health Services, an administrative agency of  
Maricopa County; Does 1-10 inclusive; Roe  
Corporations 1-10 inclusive,

19 Defendants.  
20

NO. CIV 04-0259-PHX-EHC

**DEFENDANTS' MOTION  
FOR SUMMARY  
JUDGMENT**

21 Defendants Maricopa County and Sheriff Joseph Arpaio, by and through  
22

undersigned Counsel, hereby move this Court for summary judgment as a matter of law pursuant to Federal Rules of Civil Procedure, Rule 56 (c), for the reason that Defendant Sheriff is not a medical provider and is not responsible for providing medical care in the Maricopa County Jail system, and Defendant Maricopa County, the party that is responsible for providing medical care to jail inmates, was not deliberately indifferent to a serious medical need and provided medical care that met all standards of care. This Motion is based on the accompanying Memorandum of Points and Authorities incorporated herein by this reference.

RESPECTFULLY SUBMITTED this 30th day of January 2007.

ANDREW P. THOMAS  
MARICOPA COUNTY ATTORNEY

BY: s/Maria R. Brandon  
MARIA R. BRANDON  
Deputy County Attorney  
Attorneys for Defendants Maricopa  
County and Sheriff Joseph Arpaio

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. SUMMARY JUDGMENT STANDARD**

To obtain summary judgment, the moving party must demonstrate there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). A material fact creates a genuine issue for trial "if the evidence is such that a reasonable jury could return a verdict for the non-moving party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S.

1 242, 248 (1986). The moving party may meet the burden by showing there is an  
2 absence of evidence to support the non-moving party's case. *Celotex Corp. v.*  
3 *Catrett*, 477 U.S. 317 (1986).

## 4 **II. LEGAL ARGUMENT**

### 5 **A. Defendant Sheriff Arpaio is not a medical provider and is not** 6 **responsible for medical care in the Maricopa County Jails.**

7 Medical care within the Maricopa County Jail System is provided by  
8 Maricopa County through their subdivision or department called "Correctional  
9 Health Services." (CHS) (SOF ¶ 1) It is important to clarify that "Correctional  
10 Health Services" is nothing more than a group or subdivision within Maricopa  
11 County. (SOF ¶ 1) "Correctional Health Services" is not related to the Sheriff's  
12 Office; it is a part of Maricopa County.

13 The Sheriff is an elected official responsive to the electorate; he is not  
14 controlled by Maricopa County or by the Maricopa County Board of Supervisors.  
15 The Sheriff has his own office of employees to assist him in carrying out his  
16 statutory duties; his statutory duties do not include employing medical providers  
17 or providing medical care to inmates in the jail. A.R.S. § 11-441(A). Neither the  
18 Sheriff nor his employees in the Maricopa County Sheriff's Office (MCSO) are  
19 licensed health care providers; they are neither physicians nor nurses.

20 Maricopa County is the public entity responsible for providing medical  
21 care to inmates incarcerated in the Maricopa County Jails, not the Sheriff. (SOF  
22

¶ 3); A.R.S. § 11-291. It administers this responsibility through a group of Maricopa County employees designated “Correctional Health Services” (CHS).

The Sheriff has no control over Maricopa County, CHS, or their medical care providers; the Sheriff has control only over his own employees in the Sheriff’s Office. The Sheriff has responsibilities with regard to the jails but not for the medical care of the inmates. See A.R.S. § 11-441(A). The Arizona state legislature has statutorily set forth that healthcare responsibilities for inmates lie with the counties. A.R.S. § 11-291. Therefore, judgment should be entered in favor of Defendants Sheriff Arpaio as a matter of law; Arpaio is not liable for either in tort law or for violating constitutional rights for deliberate indifference to a serious medical need under the Civil Rights Act, 42 U.S.C. § 1983

**B. Sheriff Arpaio And Maricopa County Cannot Be Liable Because There Is No *Respondeat Superior* Under The Civil Rights Act, 42 U.S.C. § 1983.**

Sheriff Arpaio and Maricopa County cannot be liable because there is no *respondeat superior* under the Civil Rights Act, 42 U.S.C. § 1983. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978). Plaintiff failed to sue any individual detention officer or employee whom he alleged directly deprived him of his constitutional rights or retaliated against him. Since there is no *respondeat superior*, neither Maricopa County nor the Sheriff can be liable for a violation of civil rights.

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**C. Defendant Maricopa County Was Not Deliberately Indifferent To Plaintiff's Serious Medical Needs.**

Defendant Maricopa County was not deliberately indifferent to Plaintiff's serious medical needs. It is a violation of the Fourteenth Amendment to deny an inmate medical attention if the denial amounts to deliberate indifference to serious medical needs. *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 292 (1976). The deliberate indifference standard imposes liability only if the person "knows of and disregards an excessive risk to inmate health and safety." *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). A prisoner's civil rights have not been violated unless the indifference to medical needs is substantial. *Broughton v. Cutter Laboratories*, 622 F.2d 458, 460 (9<sup>th</sup> Cir. 1980). There must be more than mere indifference, negligence, or medical malpractice to support a § 1983 cause of action. *Id.*

Plaintiff and he was seen by medical staff and treated. (SOF ¶2). Plaintiff's complaint alleges his constitutional rights were violated because he did not receive adequate medical care. This is not the standard to be applied in constitutional civil rights cases. The issue is whether there was deliberate indifference to a serious medical need, not whether the medical care was to plaintiff's liking or even whether there was malpractice. See *Estelle v. Gamble*, 429 U.S. 97, 106, 97 S.Ct. 285, 292 (1976).

Additionally, Plaintiff has not disclosed any expert witness to support his allegation that the treatment he received fell below the appropriate standard for

1 medical treatment. In fact, the affidavit provided by Dr. Todd Wilcox, a medical  
2 doctor, indicates just the opposite. (SOF ¶ 2 ). According to Dr. Wilcox, Plaintiff  
3 received “appropriate medical care in a timely fashion that meets the standards  
4 of care for medical treatment and practice.” (SOF ¶ 2 ).

5 Finally, Plaintiff has not presented any evidence that he has suffered any  
6 injury as a result of the medical care he received in the Maricopa County Jail.

7 See 42 U.S.C. § 1997e(e).

8 **IV. CONCLUSION**

9 For the foregoing reasons, Defendants request this Court grant summary  
10 judgment for Defendants on all claims.

11 RESPECTFULLY SUBMITTED this 30th day of January 2007.

12 ANDREW P. THOMAS  
13 MARICOPA COUNTY ATTORNEY

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16 Deputy County Attorney  
Attorneys for Defendants Maricopa  
County and Sheriff Joseph Arpaio

17  
18 ORIGINAL of the foregoing E-FILED  
19 and copies MAILED this 30th day  
of January 2007 to:

20 Honorable Earl H. Carroll  
21 United States District Court Judge  
Sandra Day O'Connor U.S. Courthouse  
22 401 West Washington Street, SPC 48  
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